

FLEISCHMAN BONNER & ROCCO  
ATTORNEYS AT LAW LLP

81 MAIN STREET • SUITE 515 • WHITE PLAINS • NEW YORK • 10601  
TEL: 908-516-2066 • FAX: 908-516-2049 • WEB: [WWW.FBRLLP.COM](http://WWW.FBRLLP.COM)

EMAIL: [JBonner@fbrllp.com](mailto:JBonner@fbrllp.com)

November 29, 2023

**VIA ECF**

Chief Judge Margo K. Brodie  
United States District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*,  
1:05-MD-01720 (MKB)(JAM)  
*David v. Friedman Law Group LLP and Gary Friedman*, 1:23-cv-08364 (PKC)(VMS)**

Dear Chief Judge Brodie:

My firm is counsel for Plaintiff Jonathan David in the above-referenced *Jonathan David v. Friedman Law Group LLP and Gary Friedman*, 1:23-cv-08364-PKC-VMS (the “*David Matter*”), which is pending before Judge Pamela K. Chen. I respectfully submit this application, pursuant to Rule 3 of the Rules for the Division of Business for the Eastern District of New York, for a judicial determination that the *David Matter* is related to the above-referenced *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 1:05-MD-01720 (MKB)(JAM) (the “*1720 Matter*”) which is pending before Your Honor.

Under Rule 3(a), “[a] civil case is ‘related’ to another civil case . . . when, because of the similarity of facts and legal issues *or because the cases arise from the same transactions or events*, a substantial saving of judicial resources is likely to result from assigning both cases to the same District and/or Magistrate Judge.” (Emphasis added.) The *David Matter* should be reassigned to Your Honor because it arises from the *1720 Matter*, and reassignment will produce a substantial saving of judicial resources.

The *David Matter* presents a contractual dispute regarding the allocation of a portion of the attorneys’ fees awarded to class counsel in the *1720 Matter*. See ECF 30. Thus, the *David Matter* arises from events with which Your Honor is already familiar, and over which Your Honor retains ancillary jurisdiction. See, e.g., *Grimes v. Chrysler Motors Corp.*, 565 F.2d 841, 844 (2d Cir. 1977) (affirming District Court’s exercise of ancillary jurisdiction over a “dispute involv[ing] two attorneys, neither of whom was a ‘party’ to the primary litigation,” regarding the distribution of funds from a court-approved settlement). Given the special role that courts play in determining the fees payable to counsel in class actions (see, e.g., Fed. R. Civ. P. 23(h)), the Complaint in the *David Matter* alleges that Your Honor is the appropriate arbiter of the fees payable to Mr. David.

Given Your Honor’s familiarity with the *1720 Matter* and the attorneys’ fees awarded therein, assignment of the *David Matter* to Your Honor will result in “a substantial saving of judicial resources.” Judge Chen has not yet expended any resources considering the merits of the parties’ fee dispute. The pre-motion conference in the *David Matter* that has been scheduled for

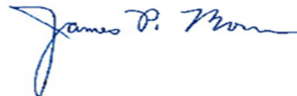
Chief Judge Margo K. Brodie  
United States District Court, Eastern District of New York  
November 29, 2023  
Page 2

December 12, 2023 concerns Defendants' proposed motion to dismiss for lack of subject matter jurisdiction, which does not implicate the merits of the parties' dispute.

This motion is timely under Rule 3 inasmuch as service was effectuated on Defendant Gary Friedman on November 21, 2023 and on Defendant Friedman Law Group LLP on November 24, 2023.

On November 28, 2023, Plaintiff's counsel conferred with Gary Friedman, who has appeared in the *David Matter* as counsel of record for both Defendants, in an effort to reach agreement concerning the *David Matter's* relatedness to the *1720 Matter*. Mr. Friedman advised that the Defendants do not consent to reassignment of the *David Matter* to Your Honor.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "James P. Bonner".

James P. Bonner

CC: District Judge Pamela K. Chen (via ECF)  
Gary Friedman, Esq. (gfriedman@flglp.com)